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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,263	08/11/2000	Lisa Joy Stifelman	TLME-00-007	9034

7590

07/07/2005

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/638,263

Applicant(s)

STIFELMAN ET AL.

Examiner

Michael N. Opsasnick

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 34-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 34-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. As per the restriction requirement set forth in the office action mailed on 6/25/2004, the response to the restriction requirement received on 8/30/2004, claims 1-26, and 34-54 will be prosecuted on the merits, and claims 27-33, and 55-60 are withdrawn from consideration.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 53 and 54 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are: the link between the claimed computer system, and ability to receive a call from a wireless phone. The claimed compute system can perform the voice recognition process, however, the structure of a telephone network (wireline, wireless, etc.) is needed to perform the recited functions for determining the network-type call, and basing a decision on the network type.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-26,34-37,44-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Gould et al (5960394).

As per claims 1,14,34,44,53,54, Gould et al (5960394) teaches an audio user interface (Fig. 32) comprising:

“prompting the user with a first message.....keywords” as displaying two options for the user, including an option to a menu that provides more choices (Fig. 32; this menu shows that the user will be presented with prechosen choice, or with another choice of words);

“waiting for a predetermined time.....provided.....automatically recognizing said keyword.....application.....keyword” as waiting for a response by the user, and if the response is an expected command, the program executes the command (col. 26 lines 1 – 42);

“provided said user does not say.....in response to said listing” as when the user does not give an expected reply, the program performs either the listing of associated functions or provides a list of possible functions (col. 26 lines 50-65; and in Fig. 28, the global “TIMEOUT 40”; also, the “UTT_TOO_SOFT” is equivalent to not hearing a valid response, i.e., the routine is interrupted because a response was not heard within a timeframe).

As per related claim 34, Gould et al (5960394) further teaches user interruptible command such as “tutor menu” wherein the application will stop performing and recall the tutor menu (col. 25 lines 39-44; as evidenced by that command being in the globals section -- i.e., the program is designed to monitor that key phrase at all times and interrupt accordingly).

As per related claims 44,53,54, Gould et al (5960394) teaches reprompting when it is determined that the utterance is faulty (Fig. 28, the global variables that are executed for utterances that are too loud, too soft, too fast or too long, and then rejected altogether with the variables REJECTED_ UTT).

As per claims 2,6,7,9,10,15,19,20,22,23,45, Gould et al (5960394) teaches repeating the same steps of waiting for a keyword, and if no keyword is supplied, providing a list of new keywords/possibilities or trying to execute the command if it is a keyword (col. 26 lines 50-54; col. 19 lines 6-32; col. 70 line 25 – col. 80 line 15).

As per claims 3,8,16,21, Gould et al (5960394) teaches prompting the user to say the keyword (Fig. 33, subblock 600, Fig. 35, subblock 608; Figs. 40,41).

As per claims 4,5,17,18,35,36, Gould et al (5960394) teaches providing a sound card in the computer that can generate sound (fig. 4).

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As per claims 11,12,24,25, Gould et al (5960394) teaches different messages in different formats (fig. 41).

As per claims 13,26, Gould et al (5960394) teaches message notification (col. 30, lines 24-44), and ending of recognition program (Fig. 89)

As per claim 37, Gould et al (5960394) teaches notification to user that processing is occurring (fig. 59, and accompanying columns explaining fig 59).

As per claims 46,47, Gould et al (5960394) teaches determining if the alleged keyword is misunderstood, non-recognized, or a keyword of a different category (col. 43, lines 45-65).

As per claims 48-52, Gould et al (5960394) teaches provisions adjusting for the type of input device (Fig. 58) and training the models according to the speaker input (Fig. 59); both characteristics are combined when trying to improve the speech model (col. 43, line 30-45).

6. Claims 38-43 rejected under 35 U.S.C. 102(e) as being anticipated by Partovi et al (6807574).

As per claim 38, Partovi et al (6807574) teaches determining a location based on the caller characteristics (abstract), wherein the user is prompted for a certain region (col.

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2 lines 60-65), and updating the information to correspond to associated scripts (col. 3 lines 1-12), along with background audio (col. 10 lines 49-55).

As per claim 39, Partovi et al (6807574) teaches caller id (col. 2 lines 6-11)

As per claim 40, Partovi et al (6807574) teaches background audio of different types (col. 10 lines 49-55).

As per claims 41-43, Partovi et al (6807574) teaches changing backgrounds, categories, and updating the system repeatedly (col. 7 lines 5-60), wherein the categories are related (col. 7 lines 50-55), and exiting the program when completed (fig. 5).

Response to Arguments

7. Applicant's arguments filed 4/28/2005 have been fully considered but are not entirely persuasive. As per the arguments with respect to the Gould reference, these arguments are moot in view of the newly detailed explanation of Gould, as presented above. As per the arguments against the Partovi reference, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references (and not performing a compare/contrast between the claim limitations and the citations of Partovi).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121

Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Wayne Young, can be reached at (571)272-7582. The facsimile phone number for this group is (571)272-7629.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (571) 272-2600, the 2600 Customer Service telephone number is (571)272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno
7/4/05


Michael N. Opsasnick
Examiner
Art Unit 2655